

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

FILED

2007 MAR 21 PM 1:55

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXASBY 
DEPUTY CLERK.**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,****Plaintiff,****v.****PIZZA HUT OF SAN ANTONIO NO. 41, INC.
D/B/A PIZZA HUT,****Defendant.****SA07CA0243XR****Civil Action No.****COMPLAINT****JURY TRIAL DEMAND****NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of race, Black and to provide appropriate relief to Ulysses G. Miller and a class of similarly situated employees, who were adversely affected by such practices. The Equal Employment Opportunity Commission (the "Commission"), alleges that Defendant, Pizza Hut of San Antonio No. 41, Inc. d/b/a Pizza Hut (hereinafter "Pizza Hut") violated Title VII by subjecting Ulysses G. Miller and a class of similarly situated employees to a hostile work environment based on their race, Black.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f) (1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Texas, San Antonio Division.

PARTIES

3. Plaintiff, the Commission, is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, Pizza Hut, has continuously been a Texas corporation doing business in the State of Texas and the City of San Antonio, and has continuously had at least fifteen employees.

5. At all relevant times, Defendant, Pizza Hut, has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§2000e(b), (g) and (h).

STATEMENTS OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Ulysses G. Miller filed a charge with the Commission alleging violations of Title VII by Defendant, Pizza Hut. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least June 11, 2004 Defendant, Pizza Hut, has engaged in unlawful employment practices at its San Antonio, Texas facility in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-2(a), by subjecting Ulysses G. Miller and a class of similarly situated employees to a hostile work environment on the basis of their race, Black, when they were subjected to racial slurs, derogatory racial jokes, and insulting racist profanity.

8. The effect of the practices complained of in paragraph seven has been to deprive Ulysses G. Miller and a class of similarly situated employees of equal employment opportunities, and to otherwise adversely affect their status as employees because of their race, Black.

9. The unlawful employment practices complained of in paragraph seven above were intentional.

10. The unlawful employment practices complained of in paragraph seven above were done with malice or with reckless indifference to the federally protected rights of Ulysses G. Miller and a class of similarly situated employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining the Defendant, Pizza Hut, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which facilitates, condones, or encourages a hostile work environment based on race and any other employment practice which discriminates on the basis of race;

B. Order Defendant, Pizza Hut, to institute and carry out policies, practices, and programs which provide equal employment opportunities for Blacks, and which eradicate the effects of its past and present unlawful unemployment practices;

C. Order Defendant, Pizza Hut, to make whole Ulysses G. Miller and a class of similarly situated employees by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph seven above including, but not limited to, medical expenses and other out-of-pocket expenses incurred as a result of the discriminatory conduct, in an amount to be determined at trial;

D. Order Defendant, Pizza Hut, to make whole Ulysses G. Miller and a class of similarly situated employees by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraph seven above, including, but not limited to, emotional pain, suffering, humiliation, anxiety, inconvenience, mental anguish, and loss of enjoyment of life, in an amount to be determined at trial;

E. Order Defendant, Pizza Hut, to pay Ulysses G. Miller and a class of similarly situated employees punitive damages for its malicious and/or reckless conduct described in paragraph seven, above, in an amount to be determined at trial;

F. Grant such further relief as the Court deems necessary and proper in the public interest; and

G. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

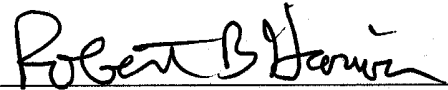
Respectfully submitted,

RONALD S. COOPER
General Counsel

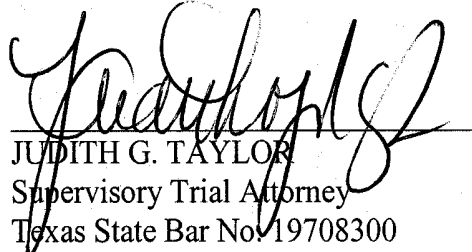
JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

Robert A. Canino by Robert B. Canino with permission
ROBERT A. CANINO
Regional Attorney
Oklahoma State Bar No. 011782



ROBERT B. HARWIN
Associate Regional Attorney
District of Columbia Bar No. 076083



JUDITH G. TAYLOR
Supervisory Trial Attorney
Texas State Bar No. 19708300
e-mail: judith.taylor@eeoc.gov



EDWARD JUAREZ
Trial Attorney
Texas State Bar No. 24014498
e-mail: eduardo.juarez@eeoc.gov

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

San Antonio Field Office
5410 Fredericksburg Rd., Suite 200
San Antonio, Texas 78229-3555
Telephone: (210) 281-7613
Facsimile: (210) 281-7669

ATTORNEYS FOR PLAINTIFF